IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

OP.No. 15031 of 2003(M)

PETITIONER:

PALPU P.R. S/O. RAMAN, PILLATIL HOUSE,
AYYANTHOLE, ARANATTUKARA VILLAGE, THRISSUR DIST.

BY ADV. SRI.M.K.DILEEP KUMAR

RESPONDENTS:
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1. THE DEPUTY TAHASILDAR (R.R.),
TALUK OFFICE, CHAVAKAD, THRISSUR DISTRICT.

2. DEEPA K., D/O. JANARDHANAN, AMBADATHU
HOUSE, P.O. MINALORE, THRISSUR DISTRICT.

3. NATIONAL INSURANCE COMPANY, PATTALAM
ROAD, THRISSUR, THRISSUR DISTRICT.

R3 BY ADV. SRI.P.R.RAMACHANDRA MENON
R1 BY GOVERNMENT PLEADER SMT. SMITHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 25079 OF 2003 IN OP 15031 OF 2003

DISMISSED

27.11.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE DEMAND NOTICE DATED 5.2.2003 ISSUED BY THE FIRST RESPONDENT THROUGH ELAVALLY VILLAGE OFFICER, DEMANDING THE PAYMENT AND CONVEYING THE ATTACHMENT OF MOVABLES IN CASE OF FAILURE.

EXT.P2 TRUE COPY OF THE AWARD IN OP MV. NO. 1659 OF 1996 DATED 20.2.2001 OF THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, THRISSUR.

EXT.P3 TRUE COPY OF THE COMPREHENSIVE INSURANCE POLICY INSURED BY THE THIRD RESPONDENT IN FAVOUR OF THE PETITIONER'S VEHICLE DATED NIL.

EXT.P4 TRUE COPY OF THE PETITION I A NO. 6406 OF 2002 FILED BY THE PETITIONER BEFORE THE MOTOR ACCIDENTS CLAIMS TRIBUNAL, THRISSUR, SEEKING SETTING ASIDE OF EXT.P2 EXPARTE AWARD DATED 24.10.2002

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N. RAMACHANDRAN NAIR, J.

O.P. NO. 15031 OF 2003

Dated this the 27th day of November, 2007

JUDGMENT

O.P. is filed against MACT award holding that petitioner is personally liable for compensation. However, petitioner filed an application to set aside the ex-parte award along with insurance policy. Counsel appearing for the third respondent admitted that petitioner's vehicle was at the relevant time covered by insurance policy. In the circumstances, O.P. is disposed of directing the MACT concerned before which application is filed by the petitioner to pass orders on the petitioner's application based on the insurance policy furnished by the petitioner, if not already done, within a period of one month from the date of production of a copy of this judgment by the petitioner. Since insurance policy is admitted, necessarily payment has to be made by the insurance company. If payment is not made by the insurance company, recovery can be continued against the insurance company. Consequently recovery against the petitioner is vacated.

(C.N. RAMACHANDRAN NAIR)
Judge